

THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

James Hemphill

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Plaintiff,

*

v.

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Civil Action No. RDB-14-2445

Two Farms, Inc. and Pennsylvania
Manufactures Association Ins. Co.

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Defendants.

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MEMORANDUM ORDER

Presently pending before this Court is the Motion to Dismiss all claims asserted against Defendant Two Farms Inc. for fraudulent joinder (ECF#8). This action arises out of a motor vehicle accident on November 28, 2007. Specifically, the Plaintiff alleges that the accident was caused by the driver of another vehicle Charles B. Diehl, Jr. The Plaintiff originally filed this case in the Circuit Court for Baltimore City seeking Uninsured Motorist benefits against Pennsylvania Manufactures Ins. Co., the insurer of the motor vehicle he was operating. The Plaintiff also named Two Farms, Inc., t/a Cloverland Dairy, his employer and the owner of the vehicle, as a Defendant. The Defendants removed this case to this Court on the basis of diversity of citizenship, pursuant to 28 U.S.C. §1332 and noted fraudulent joinder.

The facts in this case with respect to jurisdiction are undisputed. The Plaintiff, a Maryland resident, is seeking Uninsured Motorist benefits from the Defendant Pennsylvania Manufactures Insurance Company, a Pennsylvania company. The naming of Two Farms Inc., a Maryland corporation, would ordinarily defeat diversity of citizenship. The Defendants specifically “do not allege outright fraud in Plaintiff’s pleading of jurisdictional facts, but rather

that there is no possibility that Plaintiff would be able to establish a cause of action against Cloverland.” (ECF#8-1 page 3) As the Defendants have noted, the United States Court of Appeals for the Fourth Circuit has explained that “‘fraudulent joinder’ is a term of art, it does not reflect on the integrity of Plaintiff or counsel” *AIDS Counseling & Testing Ctrs. v. Group W. Television*, 903 F2d. 1000, 1003 (4th Cir. 1990). Quite simply the Defendants have noted that there is no claim of the Plaintiff against the Defendant Two Farms, Inc. t/a Cloverland with respect to Uninsured Motorist benefits.

The Plaintiff has not filed any response to the Motion to Dismiss Claims against Two Farms, Inc. (ECF#8). The only response was a letter from Plaintiff’s counsel indicating the possibility of new counsel entering an appearance in this case. (ECF#14) Accordingly, having considered said motion, the lack of any opposition thereto, and good cause having been shown;

IT IS HEREBY ORDERED this 30th day of October, 2014 that said Motion to Dismiss (ECF#8) is GRANTED;

AND IT IS FURTHER HEREBY ORDERED that all claims asserted against Defendant Two Farms, Inc. are Dismissed With Prejudice;

AND IT IS FURTHER HEREBY ORDERED that this case be re-captioned James Hemphill v. Pennsylvania Manufactures Insurance Company.

/s/
Richard D. Bennett
United States District Judge